IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3694 OF 2006

Kaushik Shantilal Patel & Anr. .. Applicants
Versus
State of Maharashtra .. Respondents

Mr.A.H.H.Ponda for applicants
Mr.A.P.Mundargi, Senior Advocate, with
M/s.Nankani & Associates for original complainant
Mr.Nitin Pradhan with Ms.Khot for Intervenor
Mr.Murarilal Kotia
Mr.A.M.Saraogi, for intervenor Mr.Salecha.
Mr.M.H.Mhambre, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 13th December 2006.

P.C.

. This is an application by the original applicants - respondents to Misc.Application No.559 of 2006 in the Court of Sessions for Greater Mumbai.

2. Applicants had applied for anticipatory bail before the learned Additional Sessions Judge. Anticipatory bail Application No.376 of 2006 was heard and decided on 2nd May 2006. Applicants were granted pre-arrest bail. The applicants were apprehending arrest in connection with C.R.No.177 of 2006 which was registered by Oshiwara Police Station. Offences alleged are criminal breach of trust and cheating punishable under I.P.C. Upon an application made by the State (Misc.Application No.559 of 2006) the learned Additional Sessions Judge has proceeded to cancel the anticipatory bail and that is how applicants are before me.

3. When this application was placed before me on 18th October 2006 I was informed that this Court has protected the applicants, inasmuch as, a direction is issued not to arrest them. That protection has been continuing till date.

Certain without prejudice statements have been recorded on 18th October 2006.

4. After this application was heard at length, Mr.Ponda upon taking instructions from the applicants, Mr.Mundargi, Senior Advocate for original complainant and learned A.P.P. for State agreed that without going into any larger controversy, the instant application can be disposed of by directing that the ad-interim order issued by this Court on 9th October 2006, shall continue and the Applicants Application for Anticipatory Bail No.376 of 2006 be restored for being disposed of by the Sessions Court afresh. The order dated 9th October 2006 to continue till the Anticipatory Bail Application No.376 of 2006 is decided afresh.

5. Thus the parties have agreed that the original Application being Criminal Application No.376 of 2006 preferred by the applicants before

the Sessions Court be restored to file for disposal afresh on merits and in accordance with law. Accordingly, by consent of parties, it is directed that the order dated 27th September 2006 is set aside. Misc.Application No.559 of 2006 does not, therefore, survive. Anticipatory Bail Application No.376 of 2006 preferred by the original applicants stands restored to file for being disposed of afresh on merits and in accordance with law, uninfluenced by any observations made on 27th September 2006 so also during the course of the ad-interim protection granted by this Court. All contentions of both sides are expressly kept open.

6. The parties to appear before concerned Sessions Court on 21st December 2006 at 11.00 a.m. The concerned Sessions Judge shall endeavour and dispose of this application as expeditiously as possible and within a period of six weeks from the date of appearance of parties.

7. Needless to state that the parties are at liberty to urge all contentions and point out all developments in connection with the subject C.R. Needless further to state that since anticipatory bail application itself is being restored to file and this Court has protected interest of parties, it is not necessary to revive the order dated 2nd May 2006 substituted as it is by this Court's order of 9th October 2006.

(S.C.Dharmadhikari, J)